

FREQUENTLY ASKED QUESTIONS for the POWER OF ATTORNEY and RELATED FORMS

1. What is a Power of Attorney?

A Power of Attorney is a legal document that gives an adult the authority to act on your behalf. The person you appoint to act on your behalf is known as the "Attorney in Fact" or agent. It is very important that your agent is someone you trust.

2. Who can use a Power of Attorney?

A person who is 18 years of age or older in Arizona, and is of sound mind can use the Power of Attorney as either a Principal, witness or Attorney in Fact.

3. What types of Power of Attorney forms are available in the Self-Service Center?

- **General Power of Attorney** – This power of attorney delegates unlimited authority to another person for them to act on your behalf.
- **Special Power of Attorney** – This power of attorney delegates limited authority to another person for them to act on your behalf.
- **Parental Power of Attorney** – This power of attorney temporarily delegates parental powers for six months unless you are active in the military.
- **Durable Power of Attorney** -The general and special powers of attorney can all be made "durable" by adding certain text to the document. This means that the document will remain in effect or take effect if you become disabled or incapacitated.

There are other types of Powers of Attorney. Further information is available at the Law Library.

4. Who is "the Principal" on the Power of Attorney form?

The Principal is the person who gives the authority to carry out his or her business.

5. What is an "Attorney in Fact"?

An Attorney in Fact is a person or agent chosen by the principal, who accepts the responsibility. He or she is an adult that the principal can trust to do what the principal directs in writing. An Attorney in Fact has nothing to do with a lawyer or an "attorney at law."

6. What is the difference between a Power of Attorney and a Durable Power of Attorney?

The durable power of attorney only goes into effect if you become disabled or incapacitated. Another difference is that the Power of Attorney starts and ends on a specific date or upon the death of the principal. A Durable Power of Attorney has no specified end date - it ends only upon the death of the principal or upon revocation.

7. When does the Durable Power of Attorney become effective?

A Durable Power of Attorney becomes effective when the Principal and Witness sign the Power of Attorney in front of a notary.

8. How is the Durable Special Power of Attorney different from a Power of Attorney that delegates parental powers?

A Durable Special Power of Attorney differs because it can be used for specific tasks other than delegation of parental powers. The Power of Attorney to delegate parental powers is a Power of Attorney specific only to the parent-child relationship.

9. Do I need to know the witness?

No. However, you cannot expect that an informed adult will be available to act as a witness at the notary office. In order to be prepared, it is best to take a person willing to be a witness with you to the notary office. Also, it may be helpful to have a person (the witness) know that you executed a Power of Attorney.

Also, it is not a requirement that the notary public provide customers with a translator. It may be in the best interest of the Principal to have a trusted witness to translate. A witness/translator may need to be present to verbally translate oaths before having their signature notarized.

10. May a non-Arizonan use these forms?

These Power of Attorney forms are based on Arizona law. Arizona law has requirements for the Principal, witness, Attorney in Fact, Notary, as well as the Power of Attorney form. These requirements may differ from those in other states. The people who sign and use the Arizona Power of Attorney form must follow these instructions and abide by Arizona Power of Attorney laws.

11. May I edit or remove language from the Power of Attorney form?

Yes, but in specific places only. The places for editing the form are indicated by a box to check or a line to mark, where you are given choices of the tasks you want the Attorney in Fact to perform. You may cross out any task you do not want your Attorney in Fact to do, or you may check mark the section you want the Attorney in Fact to perform. Both the principal and agent should initial any changes in these specified places.

12. May I use these Power of Attorney forms for health care or end-of-life planning?

No. For a packet of forms for end-of-life and health planning go to the Arizona Attorney General's office or website: http://www.azag.gov/life_care/LCP_Packet.pdf

13. Do I need to record this Power of Attorney?

Recordation is the act of entering a document or the history of an act in an official public volume, for the purpose of giving notice, furnishing authentic evidence and for preservation. The act of recording a Power of Attorney makes it a public record, and enables those who rely on its existence (banks, contractors, attorneys) to easily verify your document. Also, if your Power of Attorney is lost or destroyed, the recorded document enables the Attorney in Fact to

prove that s/he was actually appointed and has the authority to act as your agent. You may wish to record your Power of Attorney in the office of the County Recorder. A fee is charged by the County Recorder's Office for this service.

You must record the Power of Attorney if the document directs the Attorney in Fact to transfer real property. (See A.R.S. §§ 33-411 through 33-423 – Conveyances and Deeds – Recording). A fee is charged by the County Recorder's Office for this service.

14. How can I cancel or revoke a Power of Attorney?

Revocation means to recall or cancel a power or authority previously granted. You can revoke a Power of Attorney at any time and for whatever reason you wish. You must do it in writing and give a copy of the revocation form to any interested third party such as a bank or financial institution whom you or your Agent have business. If your power of attorney was recorded with the County Recorder for real estate purposes, the revocation must be recorded with the County Recorder as well. A fee is charged by the County Recorder's Office for this service.

15. What do I do with the Power of Attorney after I complete it?

The Power of Attorney does not need to be filed with the Court. Each person who is made your Agent should keep the original of his or her Power of Attorney form in a convenient place so that it can be located easily when needed. Many people will want to see the original Power of Attorney before permitting your Attorney-in-Fact to act on your behalf. At times, a copy of the Power of Attorney may be requested in connection with a particular transaction but the Agent should never release the original. Please see #13 for information on recording the Power of Attorney.